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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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In re Applications of	)	MM Docket No. 99-153
	)	
READING BROADCASTING, INC.	)	File No. BRCT-940407KF
	)	
For Renewal of License of Station	)	
WTVE(TV), Channel 51,	)	
Reading, Pennsylvania	)	
	)	
and	)	
	)	
ADAMS COMMUNICATIONS	)	
CORPORATION	)	File No. BPCT-940630KG
	)	
For Construction Permit for a	)	
New Television Station On	)	
Channel 51, Reading, Pennsylvania	)	

**ORIGINAL**

To: Administrative Law Judge Richard J. Sippel

**PARTIAL OPPOSITION TO ADAMS MOTION  
TO MODIFY PROCEDURAL DATES**

Reading Broadcasting, Inc. ("Reading"), by its counsel, hereby submits its partial opposition to the October 18, 1999 filing by Adams Communications Corporation ("Adams") entitled "Adams' Motion to Modify Procedural Dates" ("Motion"). In support, the following is shown:

Adams' Motion seeks to extend the procedural dates in this case by approximately one month, to permit another month of discovery in the case. In part, the Motion is based on Mr. Bechtel's health concerns and the participation by Adams' counsel in other cases, including a guano mining case.

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Reading is willing to agree to the extension of all procedural dates in this case except for the request for another month of discovery. It is fortuitous that Adams' Motion happens to mention the guano mining case, because Reading, on its own, could not have come up with a more apt term than "guano mining" to describe Adams' discovery efforts in this case. There is no need to permit Adams' guano mining effort to continue past October 29. In fact, for the reasons stated at the most recent conference in this case, Adams should be precluded from conducting any further discovery other than the depositions of Reading's public witnesses.

Reading is sensitive to the health concerns of Mr. Bechtel and to the responsibilities of his law firm to other clients. For those reasons, Reading is willing to agree to extend all of the other procedural dates. However, it is clear that extending the discovery deadline, as requested, is directly inconsistent with the effort to accommodate Mr. Bechtel's health concerns and the responsibilities of his law firm to other clients.

The October 29<sup>th</sup> discovery deadline can be met, except for the need for Reading to complete the depositions of the Adams principals and to depose Adams' public witnesses. Adams' claim that further depositions of Reading's principals are needed with respect to the minutes of Reading's board of directors and stockholders is completely meritless. Adams' claim that those minutes are connected to Reading's local ownership credit is simply a pretext. Reading is claiming credit for its local ownership now, not in the 1989-94

timeframe represented in the minutes. The current situation may be very different from the situation in 1989-94 as reflected in the minutes of that time period, so the minutes are not probative of Reading's local residence credit.<sup>1</sup> In addition, there is no case law to support Adams' claim that Reading's local ownership credit may vary depending on the local stockholders' involvement in station operations. Accordingly, there is simply no factual or legal basis supporting Adams' request for further discovery in connection with Reading's minutes. Rather, as demonstrated by the fact that Adams has filed two motions to enlarge issues based on its review of Reading's minutes, Adams is abusing the discovery process by using discovery to seek information to support motions to enlarge issues.<sup>2</sup> See *Amendment to Part 1 of the Rules and Practice to Provide for Discovery Procedures*, 11 FCC 2d 185, ¶ 7 (1968) (rejecting proposal to allow discovery for purpose of enlarging issues because such discovery "would be difficult to limit and would offer substantial opportunity for abuse"); see also *Metroplex Communications, Inc.*, 4 FCC Rcd 8149 n.11 (Rev. Bd. 1989) (emphasizing that "[d]iscovery is not permitted routinely as a mechanism to produce . . . an

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<sup>1</sup> If the 1989-94 time period were probative of Reading's local residence credit, then conversely WTVE's current programming would be probative of the renewal expectancy claim for the 1989-94 period. Adams cannot have it both ways.

<sup>2</sup> Adams' claim that it did not have an opportunity to question Mr. Parker about the minutes is simply disingenuous. The second day of Mr. Parker's two-day deposition did include questions derived from Mr. Cole's review of the minutes during the previous day.

issue not yet recognized”); *Regal Broadcasting Corp.*, 16 FCC 2d 610 (Rev. Bd. 1969) ¶ 5 (stating that the Review Board had no intention to facilitate “fishing expeditions” through discovery). Clearly, Adams is seeking to continue discovery for this purpose, in violation of Commission policy.

To the extent Reading has not produced documents or information that are owed to Adams, Reading will make every effort to complete production by the 29<sup>th</sup>. For instance, the missing program logs were located this week and have been provided to Adams today, the 22<sup>nd</sup>. Reading will provide the other documents and information at the earliest opportunity, recognizing that there are ongoing depositions and pleading responsibilities that make it difficult to address document production at the same time. Reading notes that this is a two-way street, in that Reading is still waiting for Adams to produce its list of privileged documents.

The Presiding Officer has plenary authority to regulate the course of the hearing, including the authority to limit discovery. *See, e.g., The Baltimore Radio Show, Inc.*, 4 FCC Rcd 6437 (Rev. Bd. 1989) (noting that “[a] presiding ALJ has broad discretion over the use of discovery, and the rulings of the ALJ will not be disturbed unless such rulings are arbitrary or an abuse of discretion”); *see also Vue-Metrics, Inc.*, 69 FCC 2d 1049 (1978) (pointing out the ALJ’s “duty to control the case and protect the Commission’s discovery processes and the rights of other parties”). For the reasons stated at the most recent conference in this case, Reading believes that the Presiding Officer

should curtail any further discovery ("guano mining") by Adams other than the depositions of Reading's public witnesses. Adams' abuse of the discovery process should be stopped immediately. Extending the discovery process for a month, as requested by Adams, is completely unnecessary and would only invite further abuse.

Respectfully submitted,

READING BROADCASTING, INC.

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October 22, 1999

## CERTIFICATE OF SERVICE

I, Myra F. Powe, a secretary in the law firm of Holland & Knight, LLP, do hereby certify that on October 22, 1999, a copy of the foregoing PARTIAL OPPOSITION TO ADAMS' MOTION TO MODIFY PROCEDURAL DATES was delivered by hand to the following:

The Honorable Richard L. Sippel  
Chief Administrative Law Judge  
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Myra F. Powe